

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA)	CASE NO. 1:18 CR 703
)	
Plaintiff,)	JUDGE PATRICIA A. GAUGHAN
)	
-vs-)	
)	<u>SENTENCING MEMORANDUM</u>
AHMED ABDULHAKIM WILLIAMS)	
)	
Defendant)	

Defendant Ahmed Williams respectfully submits this Sentencing Memorandum.

Respectfully submitted,

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MEMORANDUM

I. The Arrest

On October 26, 2018, Mr. Williams went to the Cleveland Clinic Children's Rehabilitation Hospital located at 2801 Martin Luther King Drive in Cleveland. His purpose was to visit his son who was born 23 weeks prematurely. [Plea Agreement, para. 21(b) and (c); PSI para. 60] He had in his possession 5 rounds of ammunition and a flare gun. According to the ATF report, the flare gun is not classified as a destructive device, and not designed to be used as a weapon. [PSI para. 13] The only way the flare gun can fire a bullet is if an adapter is inserted into the flare gun. Mr. Williams possessed the adapter but the adapter was not connected to the flare gun. Based on rambling conversations and paranoid references, Mr. Williams was transferred to Lutheran Hospital in Cleveland for psychiatric evaluation. [PSI para. 9-13] He was "held in the custody of CPD." [PSI para. 11] He did not consent to the transfer as mentioned in the PSI, para. 11.

On October 26, 2018, the Cleveland Clinic Police Detective Bureau issued a supplemental report advising the Lutheran Hospital staff that "Mr. Williams is not to be released unless contacting our department first." [See Exhibit A] This fact was omitted in the PSI.

Mr. Williams was charged in Cuyahoga County on October 31, 2018, Case No. CR 18 634283-A, for carrying a concealed weapon in connection with his arrest on October 26, 2018. [PSI para. 54] He was transferred to Cuyahoga County jail on October 31, 2018. [See Exhibit B] The ATF transferred him to federal custody on November 5, 2018. [Exhibit B] The state case involving the same incident was

dismissed on November 8, 2018, due to the present indictment. [PSI para. 54, Exhibits C and D] Mr. Williams has been in custody since his arrest on October 26, 2018. The PSI erroneously insists his period of incarceration begins on November 5, 2018. [See front page of PSI]

II. Indictment

Mr. Williams was indicted on November 20, 2018, on two counts. Count One charges possessing ammunition having previously been convicted of Attempted Felonious Assault in violation of 18 USC 922(g)(1). Count Two charges possessing a firearm with the reference to the same conviction. Since Mr. Williams did not possess a firearm as determined by ATF, a plea was entered to Count One. Count Two is to be dismissed at the time of sentencing. [PSI para. 3; Plea Agreement para. 9]

III. Biographical

Ahmed Williams is now 39 years old having been born in Cleveland. His parents divorced when he was 3. [PSI para. 58] He has a half-brother and a half-sister. His mother, Ayesha Drake El, raised him and worked very hard to support her children. [PSI para. 59] Ahmed grew up in a violent, drug infested neighborhood. [PSI para. 59]

Mr. Williams has 4 children, 3 by Tania Moore and one child by Tierra Garrett. Upon release, Ahmed would resume living with Tierra on Noble Road.

IV. Character Letter

Ahmed's mother has written a letter about her son. See Exhibit E. Ayesha is employed as a Children's Librarian at the Cleveland Public Library. She was a Library Specialist at St. Adalbert School, East Cleveland City Schools, and the Cleveland

Metropolitan School District. Ayesha has a Bachelor's and Master's Degree in library science and had previously worked for the Department of Defense as a civilian.

Since Ahmed's incarceration in Youngstown, New York, and North Carolina, Ayesha purchased numerous books for him including non-fiction and biographies. His mother gives examples of Ahmed's kindness to his family and others over the course of years. "During his detainment, I was surprised and proud to hear that Ahmed led a book club, sought help when needed, utilized services, and socialized with others. I sent him over 20 books that he requested. He used his time wisely by reading, reflecting about his situation and thinking about the future." Exhibit E.

These are heartfelt comments coming from a hard-working mother who asks for leniency.

V. Mental Health

As the Court is aware, Dr. DiMisa, a forensic psychologist at the Federal Bureau of Prisons in New York, opined that Mr. Williams was incompetent to stand trial. Her single-spaced 22 page report traced his mental health history and diagnosed him as suffering from Schizophrenia with Borderline Intellectual Functioning, and Multiple Episodes. See page 21 of her report.

The PSI omits any reference to Dr. DiMisa's evaluation.

Mr. Williams was then transferred to the Federal Medical Center in Butner, North Carolina, and was declared competent to stand trial. Dr. Robert Cochrane, a Board Certified Psychologist, agreed with Dr. DiMisa that Mr. Williams suffers from schizophrenia including disorganized thinking and persecutory delusions since at least 2014. [p. 5 of the "Butner" report; para. 63-65 PSI] At the time of the arrest he was

suffering from schizophrenia. [See above references] Dr. Cochrane concludes that Mr. Williams “was suffering from a severe mental disease or defect at the time of the commission of the act...” [p. 6 of his report; para. 64 of the PSI] Presently, Mr. Williams is medically stable due in part to his taking Zyprexa. [PSI para. 65] It should be noted he was not taking medication at the time of his arrest.

Section 5K2.13 of the USSG provides for a downward departure if the defendant suffers from a significantly reduced mental capacity. Clearly, the forensic psychologist who examined him made the same diagnosis, to wit, he suffered from schizophrenia at the time of his arrest. Although the plea agreement prohibits either party from requesting a downward departure or a variance, the Court has discretion to impose a higher or a lower end of the guideline range.

VI. Criminal History

The report concludes that Mr. Williams’s Criminal History is a Category V. [PSI para. 51] When the defendant challenged the criminal history as over-representing the seriousness of his criminal history, the report dismissed the argument relying on the plea agreement which prevents either party from recommending a departure or variance. [page 23 of PSI]

Respectfully, the report misconstrues the plea agreement, specifically, paragraph 18.

“Criminal History Category. The parties have no agreement about the Criminal History Category applicable in this case. Defendant understands that the Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S. Probation Office.”

Without any agreement regarding Criminal History, Mr. Williams may challenge the Category V assessment without running afoul of the plea agreement. The report erroneously concluded that Mr. Williams is precluded from arguing against the Criminal History assessment. Since there was no agreement as to criminal history, the parties are free to challenge the category.

USSG 4A1.3 provides for a lower Criminal History “if reliable information indicates that the defendant’s criminal history category substantially over-represents the seriousness of the defendant’s criminal history or the likelihood that the defendant will commit other crimes, a downward departure may be warranted.” All but one of Mr. Williams’s prior convictions are misdemeanors. The lone felony was an Attempted Aggravated Assault in Cuyahoga County, Case No. CR-14-587840. [PSI para. 49] The date of the incident is June 3, 2014. [See Indictment and Bill of Particulars, Exhibits F and G] The location was 1215 West 3rd Street, Cleveland, Ohio. See Bill of Particulars. That address is the County jail and the incident involved two inmates. Count One was amended to an attempt and County Two and Three were nolle. See Exhibit H.

It should be noted that Dr. Cochran opined on page 5 of 6 of his report that Mr. Williams was suffering from schizophrenia and persecutory delusions since 2014. {See also PSI para. 63 and 64] In fact, Dr. Jennifer Franklin of the Cuyahoga County Psychiatric Clinic opined in 2014 that the “defendant is incompetent to stand trial, but that there is a substantial probability of restoration to competency...if provided a course of treatment.” See Exhibit H.

Notwithstanding that the criminal history points may be properly counted, the totality of the mental history strongly supports that a Category V over-represents the

seriousness of Mr. Williams's criminal history. He should be classified no higher than a Category IV offender.

VII. Recommendation

Defendant's sentence should not exceed 21 months. With a Category IV and an agreed adjusted offense level of 12, his range would be 21-27 months. He should be given credit for time served since October 26, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January, 2020, a copy of the foregoing Sentencing Memorandum was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

/s/ Philip J. Korey
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